

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CARLOS RIOS-GONZALEZ JR.

Plaintiff.

vs.

MICHAEL SETH VORIS

Defendant.

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CASE NO. 20-1475

JURY DEMANDED

DEFENDANT MICHAEL SETH VORIS'S NOTICE OF REMOVAL

Defendant **MICHAEL SETH VORIS** (hereinafter "Removing Defendant"), hereby gives notice of the removal of this action, pursuant to 28 U.S.C. § 1446, to the United States District Court for the Western District of Texas, San Antonio Division. As grounds for removal, Removing Defendant states as follows:

I. INTRODUCTION

1.1 On or about July 24, 2020, it is alleged that Plaintiff Carlos Rios-Gonzalez, Jr. was traveling on De Zavala Road when his vehicle was struck by Defendant Michael Seth Voris's vehicle. As a result of the collision, Plaintiff allegedly sustained personal injuries requiring medical examination and treatment. It is further alleged that Plaintiff suffered physical impairment, disfigurement, loss of wages, loss of earning capacity and pain and mental anguish. *See Plaintiff's Original Petition, Ex. B.*

1.2 On or about November 23, 2020, Plaintiff filed his Original Petition in the 166th Judicial District Court of Bexar County, Texas, Cause No. 2020CI22787, alleging a claim of against Defendant Michael Seth Voris. *See id.*

1.3 Removing Defendant was arguably first served with notice when Plaintiff's counsel provided Defendant's insurance carrier with a copy of Plaintiff's Original Petition on or about November 30, 2020.

1.4 Removing Defendant files this notice of removal within the 30-day time-period required by 28 U.S.C. §1446(b), after having received information sufficient to determine that the case was removable and receiving a copy of Plaintiff's Original Petition.

1.5 Plaintiff is an individual residing in Bexar County, Texas.

1.6 Removing Defendant Michael Seth Voris is an individual residing in Washington County, Kentucky with his primary residence at 5691 Battle Road, Mackville, Kentucky 40040.

1.7 Defendant is not a resident or citizen of the State of Texas and does not have a principal place of business in the State of Texas.

1.8 As set forth below, diversity jurisdiction exists and Removing Defendant hereby timely removes this matter to Federal Court.

II. PROCEDURAL REQUIREMENTS FOR REMOVAL

2.1 This suit may be properly removed to this Court under 28 U.S.C. § 1441(a) because this suit was pending in a state court located within the judicial district of the United States District Court for the Western District of Texas, San Antonio Division.

2.2 Defendant Michael Seth Voris has arguably received notice of Plaintiff's Original Petition. Defendant Michael Seth Voris consents to the removal of this matter to Federal Court as evidenced by his counsel's signatures to this pleading.

2.3 As required by 28 U.S.C. § 1446(d), Removing Defendant is serving this Notice of Removal on all parties and will promptly file this Notice of Removal with the clerk of the 166th District Court of Bexar County, Texas.

2.4 All pleadings, process, orders and other filings in the state court action are attached

to this notice as required by 28 U.S.C. § 1446(a). *See Ex. B.*

III. BASIS FOR REMOVAL

3.1 Removal is proper because there is complete diversity between the parties. 28 U.S.C. § 1332(a); *Darden v. Ford Consumer Fin. Co.*, 200 F.3d 753, 755 (11th Cir. 2000). Plaintiff is an individual who is a citizen of the State of Texas and who resides in Bexar County, Texas. Removing Defendant is an individual who is a citizen of the State of Kentucky and who resides in Washington County, Kentucky.

3.2 Removing Defendant is not a resident or citizen of the State of Texas and does not have a principal place of business in the State of Texas.

3.3 In his Original Petition, Plaintiff states his damages are “over \$200,000 but not more than \$1,000,000,” which exceeds the federal jurisdictional amount in order to meet removal to federal court. When plaintiff’s monetary demand is stated in the complaint, defendant can rely on that allegation to meet the jurisdictional requirement. *See S.W.S. Erectors, Inc. v. Infax, Inc.*, 72 F.3d 489, 492 (5th Cir.1996).

3.4 All pleadings, orders and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a) and Local Rule 81. *See Ex. B.* Additionally, Removing Defendant has filed herewith a list of all counsel of record, including the addresses, telephone numbers and the parties represented. *See Ex. C.*

3.5 Venue is proper in this district for removal under 28 U.S. C. §1441(a) because the state court where the action has been pending is located in this district.

3.6 Removing Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending.

IV. JURY DEMAND

4.1 Removing Defendant hereby makes this Demand for a Jury trial.

V. PRAYER

5.1 For the foregoing reasons, Defendant **MICHAEL SETH VORIS** removes the action to this Federal Court and requests this case be placed on the docket of the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

BY: 

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ATTORNEYS FOR DEFENDANT
MICHAEL SETH VORIS

CERTIFICATE OF SERVICE

I do hereby certify that on the 30th day of December, 2020, we electronically filed ***Defendant's Notice of Removal*** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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